

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 PER-01 EB-07 L-03 CPR-01
SCA-01 SCS-03 CIAE-00 INR-07 NSAE-00 DODE-00
TRSE-00 CAB-02 FAA-00 DOTE-00 A-01 /039 W
-----191601Z 086791 /40

P 191328Z MAY 77

FM AMEMBASSY BUCHAREST
TO SECSTATE WASHDC PRIORITY 3362
USDOC WASHDC PRIORITY

C O N F I D E N T I A L SECTION 1 OF 2 BUCHAREST 3686

E.O. 11652: GDS
TAGS: EEWT BGEN RO
SUBJ: ROMANIAN EMPLOYEES OF U.S. FIRMS: IMPACT OF DECREE 81
REF: BUCHAREST 3166

1. SUMMARY: PARALLEL TO OUR REPRESENTATIONS ON IMPACT OF DECREE 81 ON EMBASSY'S ROMANIAN EMPLOYEES, WE HAVE ALSO BEEN SEEKING CLARIFICATION OF AND EXPRESSING CONCERN ABOUT IMPACT OF DECREE UPON U.S. FIRMS. IN CALL WITH AMBASSADOR ON DEPUTY MINISTER MARGARITESCU (FOREIGN TRADE) ON MAY 17, DEPUTY ASST. SEC. ARMITAGE SUGGESTED MOVES OF THIS KIND COULD DISCOURAGE U.S. FIRMS FROM ESTABLISHING REPRESENTATIONS. EARLIER E/C COUNSELOR MADE REPRESENTATION TO CHAMBER OF COMMERCE PRESIDENT HASEGANU, STRESSING THAT DECREE APPEARED TO POSE PROBLEMS FOR STAFF CONTINUITY AND MIGHT CONFLICT WITH BILATERAL AGREEMENTS. SEEMINGLY UNPREPARED FOR ANY REACTION. ROMANIAN RESPONSE AT THIS STAGE IS ESSENTIALLY TO ASSURE THAT CONSIDERATION WILL BE GIVEN TO OUR VIEWS AND THAT INTERNATIONAL AGREEMENTS WILL BE RESPECTED. POTENTIAL IMPACT OF DECREE UPON PAN AM AND MANUFACTURERS HANOVER IS SERIOUS AND COULD CAUSE FIRMS TO RECONSIDER THEIR PRESENCE. WE SEEK INSTRUCTIONS. END SUMMARY

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2. AS DEPARTMENTS AWARE (REFTEL), DECREE 81 OF APRIL 21 APPLIES NOT ONLY TO FOREIGN EMBASSIES BUT TO ALL FOREIGN FIRMS. EMPLOYEES OF U.S. FIRMS EXCEPTING PAN AM AND MANUFACTURES HANOVER (MHT) ALREADY ADMINISTERED BY CHAMBER OF COMMERCE AFFILIATE ARGUS. OSTENSIBLY, THEREFORE, DECREE APPEARS TO REPRESENT NO FUNDAMENTAL CHANGE OF EXISTING SYSTEM. IN ITS CONTRACT TERMINATION PROVISIONS, HOWEVER, DECREE EVOKES THREAT

OF ARBITRARY DISMISSAL OF EMPLOYEES BY ARGUS, THEREBY THREATENING STAFF CONTINUITY. MOREOVER, EVIDENT INCLUSION OF PAN AM AND MHT UNDER TERMS OF DECREE CLEARLY REPRESENTS DEROGATION FROM THEIR PREVIOUSLY PRIVILEGED STATUS. WE HAVE, ACCORDINGLY, SOUGHT CLARIFICATIONS FROM ROMANIANS ABOUT OPERATION OF DECREE REGARDING OUR FIRMS AND HAVE EXPRESSED CONCERN THAT DECREE BE APPLIED IN CONFORMITY WITH EXISTING BILATERAL AGREEMENTS.

3. MOST SIGNIFICANT OF THESE REPRESENTATIONS WAS DURING CALL OF AMBASSADOR AND DEPUTY ASST. SEC. ARMITAGE ON DEPUTY MINISTER MARGARITescu (FOREIGN TRADE) ON MAY 17. EXPLAINING THAT ONE OF THE RESPONSIBILITIES OF OUR GOVERNMENTS IS TO APPRISE OUR RESPECTIVE BUSINESS COMMUNITIES ABOUT FACILITIES FOR DOING BUSINESS IN OTHER COUNTRY, ARMITAGE STATED HE FEARED THAT THIS KIND OF REGULATION WILL APPEAR RESTRICTIVE AND HENSE DISCOURAGE OPENING OF NEW OFFICES. MARGARITescu RECALLED THAT AMBASSADOR HAD RAISED MATTER WITH DEPUTY PRIME MINISTER PATAN IN THEIR APRIL MEETING AND THE MINISTER HAD AGREED TO EXAMINE IMPLICATIONS. MARGARITescu SAID HE WOULD RELAY OUR CONCERN TO PATAN, WHOM, INCIDENTALLY, HE IMPLIED HAD NOT SEEN FINAL TEXT UNTIL ITS PUBLICATION. AMBASSADOR WILL FOLLOW UP WITH PATAN.

4. LAST WEEK E/COUNSELOR CALLED ON CHAMBER OF COMMERCE PRESIDENT HASEGANU TO SECURE INFORMATION AND TO SEEK ASSURANCES THAT DECREE WOULD NOT UNDULY INTERFERE WITH FIRMS' OPERATIONS. IN RESPONSE TO QUERY WHETHER DECREE REPRESENTED BASIC DEPARTURE FROM EXISTING SYSTEM. HASEGANU INDICATED THAT DECREE SIMPLY CONFIDENTIAL

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ELIMINATED SPECIAL ARRANGEMENTS WHICH HAD EXISTED FOR NUMBER OF FOREIGN COMMERCIAL ORGANIZATIONS, PRINCIPALLY AIRLINES. GOR NOW VIEWED TRANSPORTATION FORMS AS ESSENTIALLY COMMERCIALY OPERATION AS SHOWN BY CHANGED STATUS OF TAROM. IT WAS NOT GOR'S INTENTION TO DISRUPT ACTIVITIES OF FOREIGN FIRMS; INDEED, IT WAS IN ROMANIA'S INTEREST FIRMS BE PERMITTED FULLEST POSSIBLE FLEXIBILITY TO PROMOTE TRADE RELATIONS. AS PROOF THAT NEW PROGRAM NOT MEANT AS MAJOR DEPARTURE, SALARY LEVELS OF ANNEX 2 WERE PRECISELY THOSE CURRENTLY APPLIED BY ARGUS. GOR HAD NO INTENTION TO INTERFERE WITH ROMANIAN STAFFS OF THESE FIRMS. FIVE-MAN STAFF OF ARGUS WOULD HAVE ALL IT COULD DO SIMPLY TO HANDLE ITS EXISTING FINANCIAL FUNCTIONS. E/C COUNSELOR INDICATED THAT, WHILE WE APPRECIATED PRESIDENT HASEGANU'S ASSURANCES, WE WOULD BE CAREFULLY EXAMINING ROMANIAN ACTIONS TO ASSESS WHETHER THEY ARE COMPATIBLE WITH ROMANIAN OBLIGATIONS UNDER SECTIONS 4 AND 10 OF ANNEX 2 OF OUR TRADE AGREEMENT AND SECTION 1 C OF ANNEX 1 OF LONG-TERM AGREEMENT.

5. AS SPECIAL CASES E/C COUNSELOR RAISED APPARENTLY CHANGED

STATUS OF PAN AM AND MHT. ON PAN AM, POINT MADE TO HASEGANU THAT ARGUS REQUIREMENT FOR PAYMENT IN HARD CURRENCY WAS IN CONFLICT WITH PARA 2 C OF BILATERAL AGREEMENT WHICH GAVE PAN AM RIGHT TO USE LOCAL CURRENCY FOR SALARIES OF EMPLOYEES. REGARDING MHT, E/C COUNSELOR INQUIRED WHETHER SEPARATE DECREE WHICH GOVERNS BRANCH WAS ABROGATED BY DECREE 81. INITIALLY, HASEGANU, WHO IS ALSO VP OF ROMANIAN BANK FOR FOREIGN TRADE (RBFT), SEEMED TO SUGGEST THAT SEPARATE SOLUTION WOULD BE FOUND, BUT HE BACK-PEDALLED UNDER PRODDING FROM DIR. GEN GORUNESCU TO POSITION THAT STATUS OF MHT WOULD BE EXAMINED.

6. OF U.S. FIRMS REPRESENTED HERE ONLY PAN AM HAS SENT US FORMAL REQUEST FOR ASSISTANCE. IN LETTER TO AMBASSADOR OF MAY 6, WHICH COORDINATED WITH OTHER LOCAL AIRLINE REPRESENTATIVES, PAN AM REP APPEALED FOR MAINTENANCE OF EXISTING ARRANGEMENT (WHEREBY AIRLINES UNDER ODCD CONTROL) ON GROUNDS THAT NEW DECREE THREATENED STAFF CONTINUITY AND POSED
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FINANCIAL HARDSHIP. (PAN AM'S FIRST TENTATIVE ESTIMATE IS THAT ADDED EMPLOYEE COSTS PLUS \$18,000 LICENSE FEE COULD ENTAIL INCREMENTAL ANNUAL OUTLAY OF ABOUT \$50,000. OTHER NATO COUNTRIES WHICH HAVE AIRLINES OPERATING HERE ARE ALSO LOOKING AT THEIR BILATERAL AGREEMENTS FOR POSSIBLE LEVERAGE.

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TRSE-00 CAB-02 FAA-00 DOTE-00 A-01 /039 W
-----191600Z 085737 /40

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C O N F I D E N T I A L SECTION 2 OF 2 BUCHAREST 3686

7. MHT MANAGER IS SEEKING CLARIFICATION FROM RBFT PRESIDENT

VOLOSENIUC OF BRANCHES' SITUATION BEFORE MHT TAKES POSITION ON DECREE. PRIVATELY HE HAS INTIMATED, HOWEVER, THAT IF MHT SUBJECT TO NEW DECREE HE WILL RECOMMEND TO HIS MANAGEMENT THAT BRANCH BE IN EFFECT REDUCED TO "GLORIFIED" REPRESENTATIONAL OFFICE WITH REDUCED ROMANIAN STAFF AND REMOVAL OF LOAN OPERATIONS TO VIENNA. SINCE BRANCH PAID OVER \$100,000 IN LOCAL TAXES IN 1976, HE HOPES THIS POTENTIAL LOSS OF INCOME TO GOR WILL BE EFFECTIVE BARGAINING CHIP.

8. COMMENT: SITUATION IS STILL TOO FLUID TO ASSESS WITH CONFIDENCE. PRESENTLY WE HAVE NO RPT NO REASON TO BELIEVE DECREE WILL HAVE MAJOR IMPACT ON FIRMS ALREADY OPERATING UNDER ARGUS SYSTEM. PAN AM AND MHT ARE DIFFERENT STORY ALTOGETHER. WERE GOR NOT COMMITTED PUBLICLY TO PROGRAM OF ACTION. WE'D BE INCLINED TO SAY THERE MIGHT BE ROOM FOR ONE OF THOSE BALKAN COMPROMISES AT WHICH GOR IS SUCH A MASTER. WE HAVE FEELKNG, THOUGH, THAT ROMANIANS WILL FIND IT DIFFICULT TO GRANT EXCEPTION WHERE THERE IS NO EXPLICIT, PRE-EXISTING INTERNATIONAL LEGAL OBLIGATION. ON OTHER SIDE IT IS NOT PRE-ORDAINED THAT PAN AM (AND PERHAPS SOME OTHER AIRLINES FOR WHICH BUCHAREST IS MARGINAL REVENUE EARNER) AND MHT WILL SIMPLY SWALLOW CHANGE.

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8. ACTION REQUESTED. IN PREPARATION FOR WHAT WE TRUST WILL BE CONTINUING SERIES OF CONTACTS WITH GOR ON COMMERCIAL DIMENSION OF DECREE WE WOULD APPRECIATE DEPARTMENT'S AND USDOC'S GUIDANCE ON APPROACH WE SHOULD TAKE. WE SPECIFICALLY ASK WHETHER:

- A. ANY OTHER PROVISIONS OF BILATERAL AGREEMENTS BEYOND THOSE WE HAVE CITED--SUCH AS PERHAPS ARTICLE 8 OF BILATERAL TAX CONVENTION--ACCORD US RIGHTS WE MIGHT APPEAL TO IN OUR REPRESENTATIONS;
- B. WE SHOULD INSIST, AS WE MAINTAINED WITH HASEGANU, UPON PAN AM'S RIGHT TO PAY EMPLOYEE SALARIES IN LEI IN ACCORDANCE WITH SIDE LETTER TO BILATERAL;
- C. DEPARTMENTS SEE UTILITY IN EFFORT (LIKELY FRUITLESS) BUT STILL WORTH TRYING IN OURN IEW) TO ELICIT WRITTEN ASSURANCES THAT GOR WILL UNDERTAKE TO ENSURE CONTINUITY OF STAFFS AND WILL NOT TERMINATE CONTRACTS WITHOUT PRIOR CONSULTATION. (WE FAVOR APPROACH OF THIS KIND REGARDING EMBASSY EMPLOYEES, AND THERE SEEMS MERIT IN EXTENSION OF EFFORT TO PRIVATE FIRMS);
- D. INSERTION CAN BE MADE IN DRAFT NOTE TO EXTEND AVIATION BILATERAL WHICH WOULD ENSURE THAT PAN AM HAS CAPACITY TO RECOVER ANY INCREASED COSTS.
- E. THERE WOULD BE POSSIBLE UTILITY IN SEEKING INTERVENTION OF US JOINT ECONOMIC COUNCIL CHAIRMAN ROSENTHAL IF ONLY TO EXPRESS REGRET THAT GOR MOVING IN DIRECTION OF RESTRICTING

NOT ENHANCING OPPORTUNITIES FOR FOREIGN FIRMS TO OPERATE
EFFECTIVELY. IN ANY CASE, REQUEST ROSENTHAL BE BRIEFED ON
SITUATION.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, BUSINESS FIRMS, FOREIGN WORKERS
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Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770178-0948
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From: BUCHAREST
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Image Path:
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Legacy Key: link1977/newtext/t19770540/aaaabisn.tel
Line Count: 228
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: c6445e90-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 BUCHAREST 3166
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 15-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2459146
Secure: OPEN
Status: NATIVE
Subject: ROMANIAN EMPLOYEES OF U.S. FIRMS: IMPACT OF DECREE 81
TAGS: EEWT, BGEN, RO, US
To: STATE COM
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/c6445e90-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009